

**Final Statement of Reasons for the Adoption of the
Proposed Amendments to California Code of Regulations,
Title 18, Section 1705, *Relief From Liability***

Update of Information in the Initial Statement of Reasons

The State Board of Equalization (Board) held a public hearing regarding the proposed amendments to California Code of Regulations, title 18, section (Regulation) 1705, *Relief From Liability*, on December 17, 2013. During the public hearing, the Board was informed that Board staff made a minor error in the text of the proposed amendments to Regulation 1705 published on the Board's website and made available to the public during the notice and comment period. Specifically, staff inadvertently failed to show that, during the August 13, 2013, Business Taxes Committee (BTC) meeting, the Board approved amendments replacing the phrase "that person" with the phrase "those persons" at the end of the second paragraph in subdivision (a) of the regulation, as shown in the agenda for the August 13, 2013, BTC meeting attached to Formal Issue Paper 13-006 and exhibit 2 to Formal Issue Paper 13-006.

As a result, during the December 17, 2013, public hearing, the Board authorized staff to make the text of the proposed amendments to Regulation 1705 consistent with the text of the proposed amendments to Regulation 1705 that the Board approved on August 13, 2013, by replacing the phrase "that person" with the phrase "those persons" at the end of the second paragraph in subdivision (a) of the regulation. The Board also directed staff to make the text of the proposed amendments to Regulation 1705, with the substantially related change clearly indicated, available to the public for at least 15 days prior to adoption, as required by Government Code section 11346.8, subdivision (c).

On December 24, 2013, the Board made the revised text of the proposed amendments to Regulation 1705, with the change discussed above clearly indicated, available to the interested parties and posted the revised text on its website at www.boe.c.a.gov. During the Board's January 16, 2014, meeting, the Board unanimously voted to adopt the proposed amendments to Regulation 1705 with the change discussed above. The Board did not receive any written comments regarding the proposed regulatory action and no interested parties appeared at the public hearing on December 17, 2013, or the Board meeting on January 16, 2014, to comment on the proposed regulatory action.

The factual basis, specific purpose, and necessity for, the problem to be addressed by, and the anticipated benefits from the adoption of the proposed amendments to Regulation 1705 are the same as provided in the initial statement of reasons. The Board anticipates that the proposed amendments to Regulation 1705 will promote fairness and benefit taxpayers, Board staff, and the Board by clarifying that relief, under Revenue and Taxation Code section 6596, can apply to a person who the Board would reasonably expect to rely on written advice provided by Board staff in a prior audit of another related person because the two persons are:

- In the same industry;
- Under common ownership; and
- Share accounting functions and accounting staff.

The adoption of the proposed amendments to Regulation 1705 is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Regulation 1705.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the proposed amendments to Regulation 1705 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and
- Will not affect the benefits of Regulation 1705 to the health and welfare of California residents, worker safety, or the state's environment.

The proposed regulation may affect small business.

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of the proposed amendments to Regulation 1705 does not impose a mandate on local agencies or school districts.

Public Comments

The Board did not receive any written comments regarding the proposed regulatory action and no interested parties appeared at the public hearing on December 17, 2013, or the Board meeting on January 16, 2014, to comment on the proposed regulatory action.

Determinations Regarding Alternatives

By its motion on January 16, 2014, the Board determined that no alternative to the proposed amendments to Regulation 1705 would be more effective in carrying out the purposes for which the amendments are proposed, would be as effective and less burdensome to affected private persons than the adopted amendments, or would be more

cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board did not reject any reasonable alternatives to the proposed amendments to Regulation 1705 that would lessen any adverse impact the proposed amendments may have on small business.

No reasonable alternatives have been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.